

(1990) 03 MAD CK 0011

In the Madras High Court

Case No : Writ Petition No. 2342 of 1990

Yovan. J.

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 26-03-1990

Acts Referred:

Citation : (1990) 03 MAD CK 0011

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Advocate : B. Rajagopal for Mr. V. Sundararajan, for the Appellant;

Final Decision : Dismissed

Judgement

Srinivasan, J.—The petitioner challenges the validity of G.O. No. 49 dated 25-1-1990, whereby the earlier G.O. in No. II(2)/BGL/3925

(0.3)/83 dated 25-7-1985 is amended with respect to two of the clauses therein and officials and non official members of the Town Committee

totaling twenty are appointed. Under S.4 of the Tamil Nadu Panchayats Act, the Government may, if a specific notice is passed to that effect by

both Houses of the Legislature, declare any village or town or any specified part thereof to be a township if it is an industrial, labour or institutional

colony, or a health resort. The same section authorises the Government to direct, by a notification, that any functions vested in a Panchayat by or

under the Act shall be transferred to and performed by the township committee. It shall also provide for the total number of persons who shall be

members of the committee and the manner in which they shall be chosen ; the person who shall be the chairman of the Committee or the manner in

which he shall be elected or appointed; the term of office of members and the

chairman, the restrictions and conditions subject to which the committee may perform its functions and the procedure of the committee.

2. In exercise of the powers conferred under S.4(3) of the Act, the Government issued G.O. Ms. 381 Rural Development (C.I) dated 25-7-1983, directing that the functions vested in the Panchayat shall be transferred to and performed by the Tiruttani Township Committee, that the total number of members of the said Committee shall be not more than twenty, of whom not more than ten shall be non-official, that all the members shall be appointed by the Government of Tamil Nadu, that the Collector of Chengalpattu shall be the chairman of the said Committee, that the term of the office of the Chairman and members of the said Committee should be three years and that every vacancy in the office of any member of the Committee shall be reported by the executive authority to the Government and the Government shall take action to appoint any other person in that vacancy.

3. By the impugned G.O. Cl.2(ii) and (v) were amended, by substituting the word "eleven" for "ten" in sub-Cl.(ii), and the word "five" for "three" in sub-Cl.(v) of Cl.2. Thus, the maximum number of non-official members is increased to eleven and the term of office is increased to five years. The contention of the writ petitioner is that several of the members appointed by the impugned notification as members of the Committee are disqualified to be members, by virtue of Ss.21 to 24 of the Act. According to learned counsel, the qualification prescribed in Ss.22 and 23 would also apply to members of the town ship committee, who are to be nominated by the Government. S.4 is a distinct provision by itself and it is a special provision which authorises the Government to constitute a township committee and also appoint members thereof. Pursuant to that, the Government has nominated several members. S.4 does not prescribe for qualification or restriction as regards the appointment of members. The qualifications which are prescribed by the Act will not be applicable to the township committee and they have to be specified by the Government itself. The learned counsel contends that the G.O. does not prescribe qualifications for the members and, therefore, the provisions of the Act will have to be complied with, I do not agree with this contention. When the G.O. contemplates that all the members shall be appointed by the

Government of Tamil Nadu, it is not necessary for the Government to prescribe qualifications. Only when the function is delegated to some other

Authority, the Government should prescribe the qualification, so that the Authority can appoint the members satisfying the required qualifications. In

this case, the Government has not prescribed qualifications the members should have, and the non prescription of the qualifications would not

vitiating the G.O. In these circumstances, this writ petition is dismissed.